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PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: WOLF ET AL - 1 PCT
SERIAL NO.: 09/786,163 EXAMINER: C. M. KOSLOW
FILED: FEBRUARY 28, 2001 GROUP: 1755
TITLE: METHOD FOR PRODUCING ACTION AND/OR SELECTIVE
SOLID CATALYSTS FROM INORGANIC OR ORGANOMETALLIC
MATERIALS

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121) FOR
APPLICATIONS UNDER ACCELERATED EXAMINATION

MAIL STOP AFTER FINAL
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In Response to the Notice of Non-Compliant Amendment (37 CFR 1.121) for Applications Under Accelerated Examination dated August 13, 2007, enclosed please find a corrected copy of the previously filed Amendment in Response to Final Office Action filed August 6, 2007. This corrected Amendment contains underlining and strikethroughs in the amended Specification portion of this Amendment.

Regarding the Examiner's Interview Summary, the undersigned attorney agrees that the Patent Examiner has set forth the substance of the Interview on April 13, 2007.

Respectfully submitted,
DORIT WOLF ET AL

COLLARD & ROSE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576

By: Edward R. Freedman
Allison C. Collard, Reg. No. 22,532
Edward R. Freedman, Reg. No. 26,048
Attorneys for Applicants

(516) 365-9802
ERF:lgh

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, on August 17, 2007.

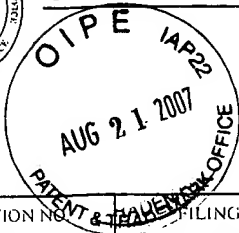
Kelly Espitia
Kelly Espitia



UNITED STATES PATENT AND TRADEMARK OFFICE

ERF CPI 8/15/07

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/786,163

02/28/2001

Dorit Wolf

Wolf, D. Et Al-1 PCT

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08/13/2007

WILLIAM COLLARD

COLLARD & ROE, P.C.

1077 NORTHERN BOULEVARD

ROSLYN, NY 11576

EXAMINER

KOSLOW, CAROL M

ART UNIT

PAPER NUMBER

1755

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

09/786,163

Applicant(s)

WOLF ET AL.

Examiner

C. Melissa Koslow

Art Unit

1755

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

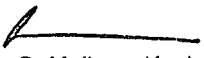
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 3-15, 19 and 20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 8/6/07
13. ☒ Other: See Continuation Sheet.


C. Melissa Koslow
Primary Examiner
Art Unit: 1755

Continuation of 3. NOTE: The amendments to the specification are non-compliant. The added new steps a1 and a2 and the deletion of the probabilities would require a new search and/or consideration.

Continuation of 11. does NOT place the application in condition for allowance because: the amendment was not entered. Applicants arguments with respect to the probabilities in the specification are noted, but the specification does not reflect what is being argued. The argued meaning of x is not found in the specification and as stated in the rejection it appears x is the same as p and thus would not be stoichiometric. Applicants calculation of x as 0.063 is incorrect for the formula $\text{Fe}_{0.44}\text{Ga}_{0.01}\text{Nb}_{0.18}\text{O}_{0.63}$. The correct amount oxygen is 1.125 since $x(2)=0.44(3)+0.01(3)+0.18(5)$ or $x=2.25/2$. The molar percentage of each element is different from the actual moles in a formula. Applicants arguments with respect to undue experimentation is not convincing since all the compounds must be tested in a catalysts reaction, not by combinatorial chemistry, to determine if the compound is a catalyst or not. The undue experimentation is due the amount of testing necessary to determine which compounds are catalysts and it is this group of catalyst from which n1 is selected. Finally, applicants argument with respect to claim 9 is not under stood since step a requires mixing catalytic materials and the claimed salts and not catalysts.

Continuation of 13. Other: The PTO-1449 was not considered. The information disclosure statement filed 6 August 2007 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e) and it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

Attached is the Interview Summary for the telephone conference on or about 13 April 2007.

Interview Summary	Application No.	Applicant(s)	
	09/786,163	WOLF ET AL.	
	Examiner	Art Unit	
	C. Melissa Koslow	1755	

All participants (applicant, applicant's representative, PTO personnel):

(1) C. Melissa Koslow.

(3) _____.

(2) E. Freedman.

(4) _____.

Date of Interview: 13 April 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____.

Claim(s) discussed: _____.

Identification of prior art discussed: _____.

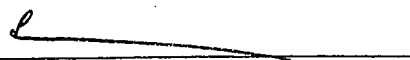
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Freedman asked if the European patent attorney for applicants could discuss the case with Ms. Koslow. She said she could talk to him only if he was registered before the USPTO and if he was of record in this application.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

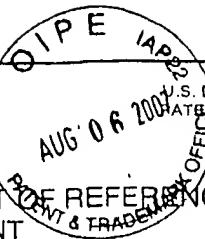
A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

FORM PTO-1449
(REV. 7-80)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

ATTY. DOCKET NO. :

WOLF, D. ET AL-1
PCT

SERIAL NO.

09/786,163

LIST OF REFERENCES CITED BY
APPLICANT

(Use several sheets if necessary)

APPLICANT: Dorit WOLF

FILING DATE:

February 28, 2001

GROUP: 1755

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	AA	5,994,580	11/1999	Takahashi et al			
	AB	6,906,221	07/2004	Zeyss et al.			
	AC	6,790,983	09/2004	Zeyss et al			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	AL							

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

	AR	E. Balcells, F. Borgmeier, I. Grißtede, and H.-G. Lintz, Catalysis Letters Vol. 87, Nos. 3-4, April 2003: See paragraph 2.1
	AS	M.O. Guerrero-Perez 1, M.V. Martinez-Huerta, J.L.G. Fierro, M.A. Banares, Applied Catalysis A: General 298 (2006): See table 1 (Sb-V-O catalysts and Sb-V-Nb-O catalysts without mentioning of oxygen content)
	AT	Xin Zhang, Hui-lin Wan, Wei-zheng Weng, and Xiao-dong Yi, Catalysis Letters Vol. 87, Nos. 3-4, April 2003: See abstract, paragraph 2.1, table 1, and the whole document
	AU	D. Linke, D. Wolf, M. Baerns, O. Timpe, R. Schlögl, S. Zey, and U. Dingerdissen, Journal of Catalysis 205, 16-31 (2002): See title, and whole document
	AV	K. Oshihara, Y. Nakamura, M. Sakuma, W. Ueda, Catalysis Today 71 (2001), 153-159: See abstract, paragraph 3, and table 1.

EXAMINER

/C. Melissa Koslow/

DATE CONSIDERED

08/10/2007

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 608; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Notice of Non-Compliant Amendment (37 CFR 1.121) for Applications Under Accelerated Examination	Application No. 09/786,163	Applicant(s) WOLF ET AL.	
	Examiner C. Melissa Koslow	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Since this application has been granted special status under the accelerated examination program, NO extensions of time under 37 CFR 1.136(a) will be permitted.

The amendment document filed on 06 August 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
 - ☒ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☐ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):
_____.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only). If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

NO Extensions of time under 37 CFR 1.136(a) will be permitted.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

C. Melissa Koslow

MELISSA KOSLOW
PATENT EXAMINER

571-272-1371

Legal Instruments Examiner (LIE), if applicable

Telephone No.